

Decision

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOLYMAR TOURS, LLC, for Certificate of Public Convenience and Necessity under § 1031 et. seq., of the California Public Utilities (PU) Code, to transport passengers and baggage express, on an on-call, county-to-county basis, between points in the counties of San Diego, Imperial, Orange, Los Angeles, San Bernardino, Riverside, Kern, Tulare, Fresno, Monterey, Santa Clara, San Francisco, Alameda, and Sacramento, described in the body of the Application; and, to establish a Zone of Rate Freedom (ZORF) under § 454.2, et. seq., of the PU Code.

Application 14-03-012
(Filed March 18, 2014)

DECISION GRANTING APPLICATION**Summary**

This decision grants the application of Solymar Tours, LLC, a California Limited Liability Company, pursuant to Pub. Util. Code §§ 1031, et seq., for a Certificate of Public Convenience and Necessity to operate as a Passenger Stage Corporation, as defined in Pub. Util. Code § 226, and to establish a Zone of Rate Freedom, pursuant to Pub. Util. Code § 454.2.

Discussion

Solyamar Tours, LLC (Applicant), requests authority to operate as an on-call Passenger Stage Corporation (PSC) to transport passengers and their baggage between points in the counties of San Diego, Imperial, Orange, Los Angeles, San Bernardino, Riverside, Kern, Tulare, Fresno, Monterey, Santa Clara,

San Francisco, Alameda, and Sacramento. According to Applicant, the customer base is an underserved community of predominantly Spanish speaking families and business people, and their visitors, predominantly, from Latin America and the Caribbean. Applicant seeks to offer a legally regulated, comprehensive, alternative transportation that meets some of the communities' transportation needs. This proposed service will encourage the public to share ride and reduce congestion on the highways. A California Environmental Quality Act review is not required because approval of the application will not have a significant adverse effect on the environment.

Applicant is currently licensed as a charter party carrier service (TCP-30175-B). The proposed service will operate with ten twelve-passenger vans. Applicant will procure more equipment, and/or use the service of subcontractors, if needed, to expand the fleet. Attached to the application as Exhibit D is Applicant's balance sheet that discloses assets of \$237,500, liabilities of \$35,000, and net worth of \$202,500.

The proposed fares, as described in Exhibit B of the application, range between \$10 and \$110, depending on distance. Applicant requests authority to establish a Zone of Rate Freedom (ZORF) of plus or minus \$5 for fares less than \$20, plus or minus \$10 for fares \$20 to \$39, and plus or minus \$20 for fares \$40 or more. The minimum fare will be \$5. Applicant will compete with other PSCs, taxicabs, charter limousines and sedans, public transit, and private automobiles in their service area. This highly competitive environment should result in Applicant pricing its services at a reasonable level. Many other PSCs have been granted ZORFs. The requested ZORF is generally consistent with the ZORFs held by other PSCs.

Notice of filing of the application appeared in the Commission's Daily Calendar on March 24, 2014. Applicant served notice of the application filing on the affected cities and counties and regional transportation agencies. Applicant requests a waiver from the provisions of Rule 3.3(b) of the Commission's Rules of Practice and Procedure, which require that a copy of the application be served on each public transit agency in the service area and a notice of the application be sent to all city and county officials within whose boundaries the passengers will be loaded or unloaded. Applicant believes the Commission's Daily Calendar provides adequate notice to parties that may have an interest in the application. We shall exercise the discretion accorded to us by Rule 1.2 and grant the waiver requested by Applicant because it will be providing on-call service, not scheduled service, and service on all of the governmental entities required by Rule 3.3(b) would be burdensome.

In Resolution ALJ 176-3333, dated March 27, 2014, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3333.

Safety Considerations

In order to be authorized to commence operations as a PSC, the Applicant must comply with the following requirements in order to protect public safety: Proof of insurance pursuant to General Order Series 101, compliance with the controlled substance and alcohol testing program pursuant to Pub. Util. Code §1032.1 and General Order Series 158, and enrollment in the pull notice system as required by Section 1808.1 of the Vehicle Code.

Assignment of Proceeding

Denise Tyrrell is the assigned Examiner in this proceeding.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Findings of Fact

1. The application requests authority to operate as an on-call PSC to transport passengers and their baggage between points in the counties of San Diego, Imperial, Orange, Los Angeles, San Bernardino, Riverside, Kern, Tulare, Fresno, Monterey, Santa Clara, San Francisco, Alameda, and Sacramento.
2. Public convenience and necessity requires the proposed service.
3. Applicant requests authority to establish a ZORF of plus or minus \$5 for fares less than \$20, plus or minus \$10 for fares \$20 to \$39, and plus or minus \$20 for fares \$40 or more for the proposed fares described in Exhibit B of the application. The minimum fare will be \$5.
4. Applicant will compete with other PSCs, taxicabs, charter limousines and sedans, public transit, and private automobiles in their operations.
5. Applicant requests a waiver of the notice requirements of Rule 3.3(b) of the Rules of Practice and Procedure as it has served a notice of the application to twelve counties and nine transportation planning agencies in the service area.
6. No protest to the application has been filed.
7. A public hearing is not necessary.

Conclusions of Law

1. Public convenience and necessity has been demonstrated and the application should be granted.
2. The request to waive the notice requirements of Rule 3.3(b) should be granted.
3. The request for a ZORF should be granted because the ZORF is fair and reasonable.
4. A California Environmental Quality Act review is not required for this decision because it can be seen with certainty that there is no possibility that the activity in question may have a significant adverse effect on the environment.
5. Before Applicant changes any fares under the ZORF authorized below, Applicant should be required to give this Commission at least ten days' notice. The tariff should show the high and low ends of the ZORF and the then currently effective fare between each pair of service points.
6. Because the matter is uncontested, the decision should be effective on the date it is signed.

O R D E R

IT IS ORDERED that:

1. A Certificate of Public Convenience and Necessity is granted to Solymar Tours, LLC, a California Limited Liability Company, authorizing it to operate as a Passenger Stage Corporation (PSC), as defined in Pub. Util. Code § 226, to transport passengers and their baggage between the points and over the routes set forth in Appendix PSC-30175, subject to the conditions contained in the following Ordering Paragraphs.
2. Solymar Tours, LLC shall:

- a. File a written acceptance of this certificate within 30 days after this decision is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this decision is effective.
- c. File tariffs on or after the effective date of this decision. The tariff shall become effective ten days or more after the effective date of this decision, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with Commission General Orders Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the Commission's controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and Commission General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so. Failure to comply with this filing will result in suspension and/or revocation of authority.
- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- f. Enroll all drivers in the Pull Notice System as required by Vehicle Code § 1808.1.

3. Solymar Tours, LLC is authorized under Pub. Util. Code § 454.2 to establish a Zone of Rate Freedom of plus or minus \$5 for fares less than \$20, plus or minus \$10 for fares \$20 to \$39, and plus or minus \$20 for fares \$40 or more for the proposed fares described in the application. The minimum fare is \$5.

4. Solymar Tours, LLC shall file a Zone of Rate Freedom (ZORF) tariff with the Commission and the public in accordance with the application at least ten days before the effective date of the tariff. The ZORF shall expire unless exercised within 120 days after the effective date of this decision.

5. Solymer Tours, LLC may make changes within the Zone of Rate Freedom by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include the authorized maximum and minimum fares and the fare to be charged between each pair of service points.

6. Solymer Tours, LLC shall post notices explaining fare changes at all locations (online and on printed material) where their fares are posted. The notices shall be the same font type and font size as those used for the fares. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

7. Solymer Tours, LLC (Applicant) is authorized to begin operations on the date that the Commission's Safety and Enforcement Division mails a notice to Applicant that its evidence of insurance and other documents required by Ordering Paragraph No. 2 have been filed with the Commission and that the California Highway Patrol has approved the use of Applicant's vehicles for service.

8. The Certificate of Public Convenience and Necessity to operate as Passenger Stage Corporation-30175, granted herein, expires unless exercised within 120 days after the effective date of this decision.

9. The notice requirements of Rule 3.3(b) of the Commission's Rules of Practice and Procedure are waived as a notice of the application has been served on parties that may have an interest in this proceeding.

10. The Application is granted as set forth above.

11. Application 14-03-012 is closed.

This decision is effective today.

Dated _____, at San Francisco, California.

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-30175

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges.

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

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SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

SOLYMAR TOURS, LLC, a California Limited Liability Company, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, are authorized to transport passengers and their baggage on an "on-call" basis between the points described in Section II, over the routes described in Section III, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- A. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- B. The term "on-call," as used, refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs shall show the conditions under which each authorized on-call service will be provided, and shall include the description of the boundary of each fare zone, except when a single fare is charged to all points within a single incorporated city.
- C. No passengers shall be transported except those having a point of origin or destination as described in Section IIB.
- D. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.

SECTION II. SERVICE AREA.

- A. Points in the counties of San Diego, Imperial, Orange, Los Angeles, San Bernardino, Riverside, Kern, Tulare, Fresno, Monterey, Santa Clara, San Francisco, Alameda, and Sacramento.

SECTION III. ROUTE DESCRIPTIONS

Commencing from any point described in Section IIA, then over the most convenient streets and highways to any point described in Section IIA.